IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY.

Notice of Motion No. 116 of 2005
IN
Insolvency Notice No. N/ 112 of 2005.
Dated 20/07/2005.

Anil Kumar Sushilkumar Ruia & Anr. ..**Judgment Debtors.**

Kotak Mahindra Bank Ltd. **...Judgment Creditor.**

Mr. Kishore Jain i/b Mr. G.R. Mehta for Judgment Creditors.
Miss. K.A. Shah i/b Ms. C.R. Naidu and Co., for Judgment Debtors.

CORA**M: V.C.DAGA.J.**
DATED: 17.01.2006.

P.C.:-

. Heard the learned counsel for the Judgment Debtors and Creditor.

. Only two grounds are canvassed in support of the submissions to set aside Notice of Insolvency;

. First ground is that the amount of Rs.10.34 crores have been realized from sale of the properties of the Judgment debtor who was principal debtor and that the realized amount shall satisfy the liabilities payable by the Judgment debtor to their creditors and second ground is that the amount sought to be demanded by way of interest is in excessive.

. So far as the first ground is concerned, in the affidavit filed by the Judgment Creditor, it has been stated that the principal Debtor Company owes Rs. 6.54 crores and 12.12 crores alongwith interest to IFCI and IDBI plus Rs.9.99 crores are payable to the

State Bank of Patiala as per the judgment passed by the D.R.T.,Mumbai dated

31.1.1997 in Suit No. 1671 of 1995.

. So far as the present Petitioning Creditor is concerned, they have to recover an amount of Rs. 5 lakhs with interest.

. Considering the total liability, as against an amount of Rs.,10.34 crores realized from the sale of the property it would hardly satisfy the liability of the Judgment Creditor. In this view of the matter, first ground raised is devoid of any substance.

. So far as the second ground is concerned, the Judgment Creditor has in effect is challenging the Judgment and order passed by the D.R.T.,Mumbai. This Court cannot go behind judgment and decree since it is not a subject matter challenged in this proceeding and on the top of it, it has become final and conclusive. In this view of the matter, second ground raised by the learned counsel for Judgment Debtor does not hold water.

. Motion is,therefore, dismissed for the reasons recorded hereinabove with no order as to costs.

V.C.DAGA.J.